

REMARKS

Claims 1-6 are pending in this application. Reconsideration of the application based on the following remarks is respectfully requested.

I. Rejections Under 35 U.S.C. §103(a)

Claims 1-6 are rejected under 35 U.S.C. §103(a) as being unpatentable over Shunsuke et al. ("Shunsuke", JP2000-308469) in view of Yamauchi et al. ("Yamauchi", U.S. Patent 5,976,587) in further view of Toru et al. ("Toru", JP2000-210048) and Rooney. Applicants' respectfully traverse the rejection.

Independent claim 1 specifies, *inter alia*, a container-packed, oil-in-water type emulsified food product wherein said food product is packed and sealed in a container with an oxygen barrier property and has a dissolved oxygen concentration of 0.8 to 8.1% O₂ immediately after manufacturing. Independent claim 5 specifies, *inter alia*, a method for manufacturing a container-packed, oil-in-water type emulsified food product comprising the steps of adjusting a dissolved oxygen concentration in the oil-in-water type emulsified food to 0.8 to 8.1% O₂ by deoxygenation treatment of the oil-in-water type emulsified food or starting materials therefore. Independent claim 5 further comprises the step of packing and sealing the food in a container having an oxygen barrier property. The cited references fail to teach or suggest the claimed invention.

Shunsuke teaches carrying out a nitrogen purge of a head space inside a container filled with mayonnaise prior to sealing a container in order to protect the flavor from degrading (Shunsuke, paragraphs [0003] and [0025]). However, nowhere does Shunsuke teach or suggest an emulsified food product that has a dissolved oxygen concentration of 0.8 to 8.1% O₂ immediately after manufacturing. Shunsuke further fails to teach or suggest that the food is packed and sealed in a container having an oxygen barrier property. Regarding independent claim 5, Shunsuke also fails to teach or suggest adjusting a dissolved oxygen

concentration in the oil-in-water type emulsified food by deoxygenation treatment of the emulsified food or starting materials therefore.

Yamauchi does not overcome the deficiencies of Shunsuke. Yamauchi teaches that a mayonnaise base is stored in an oxygen-free container (Yamauchi, abstract). Yamauchi further teaches that the empty space inside the container is filled with nitrogen in order to protect the mayonnaise base from deterioration (Yamauchi, column 4, lines 51-53).

Yamauchi simply and explicitly teaches that the empty space inside the container is free of oxygen. Thus, Yamauchi fails to teach or suggest, and teaches directly away from, an emulsified food product that has a dissolved oxygen concentration of 0.8 to 8.1% O₂ immediately after manufacturing. Yamauchi further fails to teach or suggest that the food is packed and sealed in a container having an oxygen barrier property. Regarding independent claim 5, Yamauchi also fails to teach or suggest adjusting a dissolved oxygen concentration in the oil-in-water type emulsified food by deoxygenation treatment of the emulsified food or starting materials therefore.

Toru does not overcome the deficiencies of Shunsuke and Yamauchi. Toru teaches an oil-in-water emulsified condiment containing nitrogen bubbles (Toru, abstract). Toru further teaches replacing air bubbles contained in the oil-in-water emulsified condiment with nitrogen bubbles to maintain flavor (Toru, paragraph [0007]). Toru further teaches that it is satisfactory for the nitrogen gas to be more than about 90% N₂ (Toru, paragraph [0007]). However, Toru simply teaches that the bubbles contained in an oil-in-water emulsified condiment are more than about 90% N₂. However, in the present claims, the phrase "dissolved oxygen concentration" refers to the amount of O₂ that has permeated into the oil-in-water type emulsified food product. It does not refer to the amount of oxygen that may be contained in the bubbles inside the emulsified food product or the amount of O₂ contained in the dead space of the container. Thus, Toru fails to teach or suggest a container-packed, oil-

in-water type emulsified food product having a dissolved oxygen concentration of 0.8 to 8.1% O₂ immediately after manufacturing. Regarding independent claim 5, Toru fails to teach or suggest adjusting a dissolved oxygen concentration in the oil-in-water type emulsified food to 0.8 to 8.1% O₂ by deoxygenation treatment of the oil-in-water type emulsified food or starting materials. Toru also fails to teach or suggest packing and sealing the food in a container with an oxygen barrier property.

Rooney does not overcome the deficiencies of Shunsuke, Yamauchi and Toru. Rooney discloses that packaging may be termed active when it performs some role other than providing an inert barrier to external conditions (Rooney, page 1, lines 1-2). Rooney further discloses that oxygen scavengers may be incorporated into the packaging material itself (Rooney, page 7, lines 16-21). However, Rooney fails to teach or suggest an oil-in-water type emulsified food that has a dissolved oxygen concentration of 0.8 to 8.1% O₂ immediately after manufacturing. Rooney further fails to teach or suggest adjusting a dissolved oxygen concentration in the oil-in-water type emulsified food by deoxygenation treatment of the oil-in-water type emulsified food or starting materials therefore.

Claims 2-4 and 6 depend from independent claims 1 and 5. Because Shunsuke, Yamauchi, Toru and Rooney fail to teach or suggest, alone or in combination, the features recited in independent claims 1 and 5, dependent claims 2-4 and 6 are patentable for at least the reasons that claims 1 and 5 are patentable, as well as for the additional features they recite.

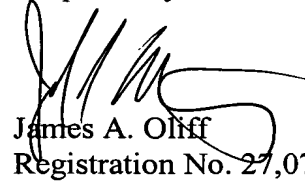
Accordingly, any combination of the cited references fails to teach or suggest a container-packed oil-in-water type emulsified food product and method for manufacturing the emulsified food product, as claimed. The references thus would not have rendered obvious the claimed invention. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

II. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of this application is earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Joel S. Armstrong
Registration No. 36,430

JAO:JLR/sxl

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OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

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